

IN THE UNITED STATES DISTRICT COURT
OF WESTERN PENNSYLVANIA

UNITED STATES OF AMERICA, CRIMINAL ACTION

vs. No. 12-91

KHALIFA ALI AL-AKILI,

Defendant.

Transcript of SENTENCING HEARING
held on APRIL 25, 2013
United States District Court, Pittsburgh, Pennsylvania
BEFORE: HONORABLE MARK HORNAK, DISTRICT JUDGE

APPEARANCES:

For USA:	James R. Wilson, Esq. Assistant U.S. Attorney U.S. Attorney's Office 700 Grant Street Pittsburgh, PA 15219
For the Defendant:	Marketa Sims, Esq. Federal Public Defender's Office 1001 Liberty Avenue Pittsburgh, PA 15222-3716
Court Reporter:	Karen M. Earley, RDR-CRR 6260 U.S. Courthouse 700 Grant Street Pittsburgh, PA 15219 412-201-2660

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P R O C E E D I N G S

(3:05 p.m. In open court.)

THE COURT: This is the sentencing hearing in the case of United States of America versus Khalifa Ali Al-Akili pending on the docket of this Court at Docket No. 12-cr-91.

Will counsel for the United States of America please enter his appearance.

MR. WILSON: James Wilson on behalf of the United States.

THE COURT: Thank you, Mr. Wilson.

Will counsel for the defendant please enter her appearance.

MS. SIMS: May it please the Court, Marketa Sims on behalf of Mr. Al-Akili.

THE COURT: Ms. Sims, who is seated with you at counsel table?

MS. SIMS: I have with me at counsel table Khalifa Ali Al-Akili.

THE COURT: Mr. Al-Akili, you are the defendant in this action, is that correct?

THE DEFENDANT: That is correct.

THE COURT: Mr. Babik, will you please administer the oath to the defendant.

KHALIFA ALI AL-AKILI, DEFENDANT HEREIN, WAS SWORN.

THE CLERK: State your name for the record.

1 THE DEFENDANT: Khalifa Ali Al-Akili.

2 THE CLERK: Thank you.

3 THE COURT: Court will also note for the record
4 present in the courtroom is a representative of the United
5 States Office Probation and Pretrial Services, Mr. John
6 Poglinco, who is the officer assigned to this matter.

7 The record will reflect that since the plea hearing
8 in this Court on November 27, 2012, the following has
9 occurred:

10 A Presentence Investigation Report was prepared on
11 February 11, 2013; an addendum to that report was prepared and
12 dated March 5, 2013.

13 I would also note for the record the filing of the
14 following, that is, position statements and statements
15 reflecting sentencing factors filed by both the government and
16 defendant, along with the Court's tentative findings and
17 conclusions.

18 Have both the defendant, Mr. Al-Akili, and his
19 lawyer, Ms. Sims, reviewed the documents to which I made
20 reference?

21 Ms. Sims?

22 MS. SIMS: Yes, Your Honor.

23 THE COURT: They were personally reviewed by the
24 defendant?

25 MS. SIMS: Yes, Your Honor.

1 THE COURT: Is that correct, Mr. Al-Akili?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Has the United States counsel also
4 reviewed those documents, Mr. Wilson?

5 MR. WILSON: I have. Thank you, Your Honor.

6 THE COURT: I also note for the record the United
7 States Supreme Court's decision in the case of the United
8 States of America versus Booker by which the United States
9 Sentencing Guidelines have been declared to be advisory
10 recommendations and are no longer mandatory.

11 Also, under more recent Supreme Court precedent, a
12 sentencing court may not presume, that means take for granted,
13 that a guideline advisory range of sentences is reasonable.

14 Accordingly, the guidelines are only not mandatory,
15 they are not presumed or to be taken for granted as
16 reasonable.

17 Ms. Sims and Mr. Wilson, are you able to hear me?
18 I wasn't sure.

19 MS. SIMS: Yes, Your Honor.

20 MR. WILSON: Fine, yes, Your Honor.

21 THE COURT: Thank you.

22 Mr. Al-Akili, you have taken an oath to tell the
23 truth, is that correct?

24 THE DEFENDANT: Yes, I have.

25 THE COURT: Mr. Al-Akili, in a proceeding in this

1 Court, you previously plead guilty to a one count criminal
2 indictment at Docket No. 12-91, which charged you with a
3 felony crime of being a convicted felon in possession of a
4 firearm in violation of Title 18 of the United States Code,
5 Section 922(g)(1); is that correct?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Following your guilty plea, you recall
8 having indicated your willingness to be interviewed by the
9 probation office and to have me review the presentence
10 investigative report prior to the fixing of sentence?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: I would let counsel and the defendant
13 know that I have reviewed the complete file in this case, all
14 matters that have been brought to the attention of the Court
15 on behalf of both the United States of America and the
16 defendant.

17 I've reviewed the presentence investigative report
18 and the addendum to it, the position statements regarding that
19 report, and the memoranda in aid of sentencing filed by the
20 parties. I also reviewed the recommendation of the probation
21 office with regard to an appropriate sentence.

22 I must advise the parties that according to a
23 standing Order of the Board of Judges of this Court and
24 consistent with the applicable Federal Rules of Criminal
25 Procedure, it is not appropriate to disclose the sentence

1 recommendation of the probation office to either the
2 defendant, his attorney, or the government's attorney.

3 However, Mr. Al-Akili, in determining your
4 sentence, the Court will not consider any factual or legal
5 matter that has not been disclosed to you and to your
6 attorney. Do you understand that?

7 THE DEFENDANT: Yes, I do.

8 THE COURT: Ms. Sims, having reviewed the
9 presentence investigative report and addenda and the Court's
10 tentative findings and rulings, is there any errors in those
11 documents you have not called to the Court's attention?

12 MS. SIMS: No, Your Honor.

13 THE COURT: Mr. Al-Akili, have you reviewed and
14 discussed with your lawyer the presentence investigative
15 report and the addenda and the other documents to which I made
16 reference?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Is that correct, Ms. Sims?

19 MS. SIMS: It is, Your Honor.

20 THE COURT: The Court adopts the relevant findings
21 in the present investigative report and addenda that are
22 applicable to this sentencing determination today in the
23 context of all facts and matters before the Court.

24 I would note that as to Paragraph 21 of the
25 presentence report, it is deemed amended to reflect that the

1 adjudication which was set forth therein was of a juvenile
2 dependency rather than delinquency.

3 Further, as to the disputed matters set forth in
4 Paragraphs 24 and 25, the Court notes on the record that such
5 matters will not be considered in the fixing of a status
6 conference as to this defendant in these circumstances and,
7 therefore, the Court need not resolve any disputed matters
8 relative to those paragraphs.

9 Mr. Wilson, before moving to the sentencing phase
10 and allocution phase of the proceedings, does the government
11 have any further position statement or motions regarding
12 sentence?

13 MR. WILSON: We do not. Thank you, Your Honor.

14 THE COURT: The Court acknowledges the defendant's
15 acceptance of responsibility, which results in a two level
16 reduction in offense level, consistent with the sentencing
17 guidelines.

18 Ms. Sims, as counsel for the defendant, is there
19 anything you would like to say or present on behalf of your
20 client at this time?

21 MS. SIMS: Yes, Your Honor.

22 THE COURT: You may proceed, Ms. Sims.

23 MS. SIMS: May I approach?

24 THE COURT: You may. Is that podium acceptable to
25 you?

1 MS. SIMS: May I grab this podium (indicating)?

2 THE COURT: You may grab that podium, Ms. Sims.

3 MS. SIMS: Thank you.

4 Your Honor, Mr. Al-Akili stands before the Court

5 today at 35 years old. He's a married man with an infant

6 daughter. He is respected in his community. Indeed, many

7 members of his community are here in court today, along with

8 his wife, to support him.

9 At the time of his arrest on these charges, he was

10 living a law-abiding life and supporting his family through an

11 Internet business selling books, clothes, oils, and perfumes

12 to a largely Muslim clientele and was attempting to open Halwa

13 (phonetic) Grocery Store to serve the Muslim community in

14 Pittsburgh.

15 He is a devout Muslim and actively involved in his

16 mosque and assisting others less fortunate than himself in his

17 community.

18 His friend Nathan Ackinson, who is sitting back

19 there wearing the black turban, has written to the Court

20 Mr. Al-Akili lived a life of helping others. Mr. Ackinson

21 citing specifically Mr. Al-Akili was active in the community

22 helping Somali refugees and establishing a small school to

23 help young Somalis who are refugees in Pittsburgh learn

24 English.

25 In his letter to the Court, Mr. Ackinson noted he

1 ran the school community out of his home from 2006 to 2010.

2 Mr. Al-Akili's close friend Rafiq Brookins, who is
3 also here in court in the back wearing a black jacket, who
4 supplied the gun to Mr. Al-Akili that he possessed at the
5 range has called Mr. Al-Akili a great benefit to the community
6 here in Pittsburgh.

7 Mr. Al-Akili's wife Hibo Mursal has written to the
8 Court that her husband is a respectful and humble man. He
9 would do anything for someone in need.

10 Ms. Mursal notes he would allow people who did not
11 have a place to stay, who were homeless, to stay in his home.
12 He involved himself in events in his community that required
13 volunteers. She writes people in the community see
14 Mr. Al-Akili as a good person, non-violent and concerns
15 himself with the well-being of humanity.

16 She describes Mr. Al-Akili as a husband, as a
17 loving and patient husband, as a frugal and good provider, who
18 works hard both at his job at East End Food Co-op and at home.
19 She describes him as a loving and attentive father to his
20 infant daughter, describing how he would come home from a day
21 of work and take the infant away from her so she could rest
22 and he take over.

23 Mr. Al-Akili does have a criminal record, but as
24 it's part of the past and Mr. Al-Akili committed his prior
25 criminal offenses between the ages of 19 and 24 and had one

1 conviction for retail theft and resisting arrest at age 29.
2 However, for the past ten years he led a very positive and
3 law-abiding life.

4 The circumstances of the offense don't indicate
5 that Mr. Al-Akili intended to return to the criminal
6 lifestyle.

7 As the Supreme Court in the Pepper case recently
8 said, the Court should also sentence a man or woman as that
9 person appears before the Court on the day of sentencing.

10 As Mr. Al-Akili in this case accepted an
11 invitation, he accepted an invitation from his good, dear,
12 close friend, Rafiq Brookins. They were going out to the
13 Trafford Sportsmen's Club to enjoy themselves and he accepted
14 that invitation. He went along and once there, he got caught
15 up in the moment.

16 They were firing the rifle down range. They gave
17 it to him. He fired the rifle down range. He is not allowed
18 to do that. He is a prior felon. He is not permitted to
19 possess a firearm for any length of time.

20 However, as the Court has indicated previously,
21 Mr. Al-Akili had no intention of possessing this gun in
22 furtherance of any criminal conduct. He was out with the
23 boys. He had no intention of harming anyone or attempting to
24 gain ownership or control of a firearm.

25 He has no need for a firearm. He is a peaceful,

1 law-abiding person. The photograph was discovered when the
2 FBI obtained a subpoena from Mr. Brookins' private email and
3 discovered the pictures therein.

4 Based on all the forgoing, we request leniency and
5 ask the Court to sentence Mr. Al-Akili to a fair and just
6 sentence and I know both Mr. Al-Akili's wife and Mr. Brookins
7 would like to briefly address the Court.

8 THE COURT: Ms. Sims, you may call anyone to assist
9 the Court consistent with Title 18, United States Code,
10 Section 3661.

11 MS. SIMS: Thank you, Your Honor.

12 THE COURT: Consistent with the appropriate
13 traditions, we normally would apply an oath. Is it
14 appropriate to do affirmations or an oath?

15 MS. SIMS: She is indicating an oath is okay.

16 THE COURT: Mr. Babik, please administer the oath.

17 **HIBO MURSAL, DEFENSE WITNESS, WAS SWORN.**

18 THE CLERK: Please state your name for the record.

19 MS. MURSAL: My name is Hibo Mursal.

20 THE COURT: Please step forward.

21 Ms. Sims, assist, if you can, with the adjustment
22 of the microphone so the Court and our reporter are capable of
23 hearing her speak.

24 The Court will now hear from you.

25 MS. MURSAL: Your Honor, my husband didn't do

1 nothing. He doesn't deserve to go to jail. Justice in this
2 country -- he doesn't deserve to go to jail.

3 MS. SIMS: Tell the Court about your husband, the
4 type of man he is.

5 MS. MURSAL: I married him in 2010. I have never
6 seen any violence. He is a humble man, a good man. He is
7 kind. I don't know why the government is chasing him and
8 wants him to go to jail. I don't know why.

9 I want to know why they want to do that. He didn't
10 do nothing wrong. He is a good man. He is taking care of me
11 and my daughter, too. I never see violence. I never -- maybe
12 when he was a young kid he did some stuff but not anymore. He
13 is not a terrorist my husband.

14 MS. SIMS: Thank you.

15 THE COURT: Mr. Wilson, if at any time you need to
16 relocate to assist in hearing the witnesses, you may position
17 yourself more appropriate in the courtroom.

18 MR. WILSON: Thank you, Your Honor.

19 THE COURT: Mr. Wilson, do you have any questions
20 for Ms. Mursal?

21 MR. WILSON: I do not.

22 THE COURT: Thank you.

23 Ms. Sims.

24 MS. SIMS: I have Mr. Brookins who has indicated he
25 wanted to address the Court.

1 THE COURT: You may bring Mr. Brookins forward, if
2 you like.

3 Ms. Sims, same question, would Mr. Brookins request
4 an oath or affirmation?

5 MS. SIMS: Oath.

6 THE COURT: Mr. Babik, please administer the oath
7 to Mr. Brookins.

8 THE CLERK: Yes, Your Honor.

9 **RAFIQ BROOKINS, DEFENSE WITNESS, WAS SWORN.**

10 THE CLERK: State your name for the record.

11 MR. BROOKINS: Rafiq Brookins.

12 THE COURT: Mr. Brookins, I would ask you to stand
13 close to the mic so we can hear you.

14 MR. BROOKINS: What I would like to say is that I
15 was the one who invited him to the gun range. I had no idea
16 not only that there was a law stating that felons couldn't
17 possess a firearm or even go to a gun range but that he was a
18 felon at all.

19 We went there only for sport and play and to have a
20 little fun. No harm was involved with anyone.

21 This man is a very loving and caring person, one of
22 the only people I actually love in this world, and it saddens
23 me greatly to be a United States citizen and to see this man
24 going through so much hardship based on really no crime
25 whatsoever.

1 This man harmed no one or did anything wrong, even
2 according to the United States Constitution No. 2, he has a
3 right to bear arms, and there shall be no law that infringes
4 this right.

5 So, as an American citizen, it very saddens me this
6 is even happening to another American citizen. I don't know
7 what else to say.

8 THE COURT: Mr. Wilson, do you have any questions
9 for Mr. Brookins?

10 MR. WILSON: I do not.

11 THE COURT: Thank you for coming to court today.

12 Ms. Sims.

13 MS. SIMS: We have nothing further, Your Honor.

14 THE COURT: Mr. Al-Akili, do you have anything
15 additional you would like to say or present on your own behalf
16 in conjunction with the sentencing that the Court will impose?

17 THE DEFENDANT: Yes, Your Honor.

18 Your Honor, I just want to state, as has already
19 been told to you through correspondence, through letters, that
20 I feel a grave injustice is being done to me and that, but I
21 accept full responsibility.

22 At the time, I had no inclination or prediction,
23 position to commit any offense or any crime or violate any
24 United States statutes. So, the only thing I really would
25 like to say is that my faith is completely and totally

1 predestined to me, whatever Allah has already predestined what
2 happened. I ask you to show leniency and mercy upon me.

3 That's pretty much all I have to say. Everything I
4 have said, I already wrote letters to you and explained my
5 situation in detail. I ask you to show mercy upon me.

6 THE COURT: Thank you, Mr. Al-Akili.

7 Ms. Sims, is there anything else you would like to
8 elicit from him?

9 MS. SIMS: No.

10 THE COURT: Mr. Wilson, anything you would like to
11 elicit from the defendant, Mr. Al-Akili?

12 MR. WILSON: Nothing.

13 THE COURT: Mr. Al-Akili, thank you for your
14 statement to the Court.

15 THE DEFENDANT: Thank you.

16 THE COURT: Mr. Wilson, are there any other matters
17 that the government of the United States would like to bring
18 to the Court's attention regarding sentencing in this case?

19 MR. WILSON: Nothing further at this time.

20 THE COURT: Ms. Sims, is there any legal cause or
21 reason why sentence should not be pronounced in this case?

22 MS. SIMS: No, Your Honor. We would ask the Court
23 entertain, if the Court sentences Mr. Al-Akili to a term of
24 incarceration, that the Court recommend he be placed as close
25 as possible to his home in Pittsburgh so he can receive

1 visitors.

2 THE COURT: Understood. That is a motion that the
3 Court routinely grants in these circumstances.

4 Mr. Al-Akili, the Criminal History Category
5 applicable here under United States Sentencing Guidelines is
6 6. Therefore, Zone D for sentencing purposes would apply
7 under the advisory guideline range.

8 Based on consideration of the applicable statutory
9 provisions, the applicable provisions of the United States
10 Sentencing Guidelines, the motions that have been made to the
11 Court, and the Court's determinations regarding those and
12 consideration of all the other matters lawfully brought to the
13 Court's attention in which it is authorized to consider, the
14 Court determines that the applicable advisory guideline range
15 based on the total offense level in your case is a total
16 offense level of 22, for which the applicable statutory
17 guideline range of imprisonment is 84 to 105 months.

18 Because the applicable portion of the sentencing
19 table contained in the United States Sentencing Guidelines is
20 Zone D, the provisions of United States Sentencing Guidelines
21 Section 5C1.1(c) as to probation, home confinement, or
22 community confinement are not applicable here.

23 Mr. Wilson, it's the Court's understanding that
24 neither forfeiture or restitution is applicable in this case,
25 is that correct?

1 MR. WILSON: That is correct, Your Honor.

2 THE COURT: Further, pursuant to the applicable
3 provisions of the United States Sentencing Guidelines, a term
4 of supervised release of two to five years would be applicable
5 in this case and there is a special assessment of \$100 per
6 count of the criminal indictment to which you pled guilty for
7 a total of \$100.

8 Ms. Sims or Mr. Al-Akili, do you have anything
9 further you would like to present before sentencing is
10 pronounced?

11 MS. SIMS: No.

12 THE COURT: Mr. Wilson?

13 MR. WILSON: No.

14 THE COURT: Mr. Al-Akili?

15 THE DEFENDANT: No.

16 THE COURT: In accordance with the applicable
17 provisions of the Sentencing Reform Act of 1984, including the
18 provisions of Title 18 of the United States Code, Section
19 3553, in determining your sentence, the Court has taken into
20 consideration the factors authorized by law and has considered
21 the arguments and presentations made by counsel and its prior
22 rulings in the case.

23 The Court also received and reviewed letters that
24 you sent to the Court relative to sentencing, Mr. Al-Akili,
25 along with members of your family and friends.

1 The Court has taken into account all of those
2 matters to the fullest extent that is permitted by law.

3 I considered all of the legally admissible evidence
4 that has been made to the Court, arguments made by counsel,
5 motions made by counsel, and statements made to the Court in
6 determining the applicable guideline range and in fixing the
7 precise sentence the Court will impose in this case.

8 I considered only those factors authorized to be
9 considered in your case by the applicable provisions of Title
10 18 of the United States Code, Section 3553 in fixing that
11 applicable range and the actual precise sentence in your case.

12 In doing so, the Court has endeavored to fix a
13 sentence that complies with those directives and does so in a
14 manner that avoids unwarranted sentencing disparities among
15 defendants with similar records who have been found guilty of
16 similar conduct.

17 Mr. Al-Akili, the Court would note pursuant to the
18 directives of the United States Sentencing Commission by
19 Congress and the statutes posited by our Supreme Court, by the
20 United States Court of Appeals for the Third Circuit, it's my
21 obligation to impose a sentence that is specific to you, to
22 your conduct, and to your situation, and all the matters which
23 I have noted on the record.

24 The charges to which you pled guilty and of which
25 you have been convicted are serious. You have accepted

1 accountability for that conduct as reflected in the sentence
2 as noted by the application of the sentencing factors for
3 acceptance of responsibility.

4 Court also believes, however, that it's appropriate
5 to observe that you are not a first-time offender by any
6 means. You previously have been provided with a number of
7 opportunities to recognize the consequences of your behavior.
8 That criminal record by necessity will impact the sentence
9 this Court imposes, as will all of the other matters that have
10 been appropriately brought to the Court's attention and
11 lawfully considered by the Court.

12 Court has also concluded in setting the applicable
13 guideline range and in fixing a sentence in your case that a
14 sentence of imprisonment is necessary to deter you from
15 further criminal activity and as importantly, to deter others
16 from engaging in similar criminal activity.

17 By the passage of the statute you pled guilty to
18 violating, the Congress of the United States and the law
19 passed by the House and Senate and signed by the President has
20 reflected the seriousness of those convicted of prior felony
21 offenses in possessing firearms after those convictions.

22 The sentence that the Court imposes will
23 necessarily reflect the seriousness of that activity in the
24 specific circumstances of your case.

25 Accordingly, the Court finds and concludes that the

1 following sentence is appropriate as being consistent with the
2 law applicable to this case to fulfill the purposes of
3 sentencing under the applicable law and in the facts of your
4 case.

5 Pursuant to the Sentencing Reform Act of 1984 and
6 the matters previously set forth by the Court, it is the
7 judgment of the Court that you, the defendant, Khalifa Ali
8 Al-Akili are hereby sentenced to a term of imprisonment of 94
9 months as to Count 1 of the indictment, followed by a term of
10 supervised release of five years, a mandatory special
11 assessment of \$100 on each count of conviction in this case,
12 one count, is imposed pursuant to Title 18, United States
13 Code, Section 3013, which shall be paid to the U.S. District
14 Court Clerk immediately, if it has not been previously done.

15 Based on the financial information contained in the
16 matters brought to the Court's attention, Court finds that you
17 do not have the ability to pay a fine and a fine is,
18 therefore, waived.

19 The Court further finds based on the stipulation of
20 counsel, that neither restitution nor forfeiture is applicable
21 in this case.

22 Mr. Al-Akili, you must be aware that your sentence
23 of supervised release will carry with it a number of
24 significant conditions. These include, but are not limited
25 to, the standard conditions as recommended by the advisory

1 guidelines, the obligation upon release you seek and hold
2 gainful employment, you must support any dependents and meet
3 family responsibilities to the best of your ability, you must
4 not use alcoholic beverages to excess, if you're inclined to
5 use them at all, you may not engage in unlawful use of any
6 controlled substance, nor may you unlawfully possess any
7 controlled substance or apparatus or paraphernalia related to
8 such substances.

9 Given your past history of drug use, you must
10 submit to substance and alcohol tests required by the
11 probation office, including random tests, one such test within
12 15 days of your release.

13 I will make it a condition of your supervised
14 release that if you're directed by the probation office and
15 also excused from doing so by your probation officer, you must
16 participate in an appropriate program of substance abuse
17 treatment, counseling or support as approved by your probation
18 officer, and must pay the cost of such treatment as determined
19 by the probation officer, not to exceed the actual cost.

20 You may not possess a firearm, ammunition, any
21 explosive or destructive device or any weapon. You may not
22 leave the judicial district to which you are released,
23 including this direct, that is the Western District of
24 Pennsylvania, without advance approval of the probation office
25 or court.

1 You may not violate any provision of federal,
2 state, or local law and must immediately advise your probation
3 officer within 72 hours of any contact you had with any member
4 of law enforcement.

5 If you are intending to move your residence, you
6 must advise the probation office at least ten days in advance.

7 You must permit the probation officer to visit your
8 home at any time and also to permit them to search your
9 person, property, house, residence, vehicle, papers, business,
10 or place of employment at any reasonable time and in a
11 reasonable manner based on reasonable suspicion that
12 contraband or evidence of a violation of a condition of
13 supervision exists.

14 A failure to submit to such a search may be grounds
15 or revocation of supervision. You must inform any residents
16 or users of any such premises those premises may be subject to
17 such a search.

18 You will also be obligated to report to the
19 probation office as frequently as they may require and will be
20 obligated to submit to the collection of a DNA sample.

21 Mr. Al-Akili, I must advise you should you violate
22 any term of supervised release, the probation office will
23 bring that to the Court's immediate attention. If
24 appropriate, a motion may be filed with the Court to revoke
25 your probation. Should that then happen and such a violation

1 be proven, you may then be sentenced to a further term of
2 imprisonment.

3 Mr. Al-Akili, please let today be the last time
4 that the Court is required to address you, your conviction, or
5 your conduct.

6 The Court finds that the sentence as imposed
7 conforms to all of the applicable statutory requirements and
8 additional law and the sentencing guideline provisions and
9 statutes.

10 Mr. Al-Akili, you have the right to appeal from the
11 orders of this Court, the judgment of guilt, and the sentence
12 that the Court has imposed today.

13 Do you understand that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Mr. Al-Akili, you have the right to
16 have a lawyer represent you in any appeal. If you cannot
17 afford a lawyer, one will be appointed for you at no cost to
18 yourself.

19 Do you understand that?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Mr. Al-Akili, if you cannot afford
22 certified copies of any necessary court reports or
23 transcripts, they will be furnished to you at the expense of
24 the United States government.

25 Do you understand that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Finally, and, importantly, you must
3 know that if you do wish to appeal, you must do that, that is
4 appeal, within 14 days of today. If you do not appeal within
5 14 days of today, you will lose your right to appeal.

6 Do you understand that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Mr. Al-Akili, if you request, the Clerk
9 of this Court will immediately prepare and file a notice of
10 appeal on your behalf.

11 Do you want me to direct the Clerk of this Court to
12 prepare and file such a notice of appeal on your behalf?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: Ms. Sims, are there any other matters
15 for consideration or action by this Court before the
16 sentencing hearing is concluded?

17 MS. SIMS: No, Your Honor.

18 THE COURT: Mr. Wilson, on behalf of the United
19 States of America, are there any other matters for
20 consideration or action by this Court before the sentencing
21 hearing is concluded?

22 MR. WILSON: Nothing, Your Honor.

23 THE COURT: Mr. Wilson, on behalf of the United
24 States, are you satisfied that the Court has addressed the
25 matters required to be addressed under the Sentencing Reform

1 Act and the applicable provisions of the United States
2 Sentencing Guidelines?

3 MR. WILSON: Yes.

4 THE COURT: Ms. Sims, do you concur?

5 MS. SIMS: Yes.

6 THE COURT: Mr. Al-Akili, the Court orders that you
7 be remanded to the custody of the United States for the
8 imposition and execution of your sentence.

9 Mr. Wilson, does the government of the United
10 States have any objection to the Court in its sentencing notes
11 reflecting that it requests that the United States Bureau of
12 Prisons, to the extent practical, incarcerate Mr. Al-Akili as
13 close to Pittsburgh, Pennsylvania, as is possible?

14 MR. WILSON: No objection.

15 THE COURT: Mr. Al-Akili, based on the motion of
16 your lawyer and the fact the United States does not object, I
17 will make that notation in the sentencing documents the Court
18 prepares.

19 I must advise you that is a recommendation. The
20 power of the Court is to recommend to the Bureau of Prisons
21 where you be placed. I am not in a position to order that to
22 happen but I will place it in there and strongly urge the
23 Bureau of Prisons to house you at a location as close to
24 Pittsburgh, Pennsylvania, as is possible.

25 Ms. Sims, are there any other matters relative to

1 sentencing or these proceedings that should be brought to the
2 Court's attention?

3 MS. SIMS: No.

4 THE COURT: Mr. Wilson, are there any other matters
5 relative to sentencing or these proceedings that should be
6 brought to the Court's attention?

7 MR. WILSON: No.

8 THE COURT: With that, the sentencing hearing is
9 concluded, Mr. Ali-Akili. I wish you the best.

10 Mr. Babik, you may now adjourn the Court.

11 (Whereupon, the above hearing was concluded at
12 3:40 p.m.)

13 - - -
14

15 I hereby certify by my original signature herein,
16 that the foregoing is a correct transcript, to the best of my
17 ability, from the record of proceedings in the above-entitled
18 matter.

19
20 S/ Karen M. Earley

21 Karen M. Earley

22 Certified Realtime Reporter
23
24
25